

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

STEVEN NOVIA, individually and on behalf
of all others similarly situated,

Plaintiff

v.

MOBIZ INC.; HARRIS BROTHERS OF
MICHIGAN, INC.,

Defendants.

Civil Action No. 1:25-cv-11036-AK

DEFENDANT MOBIZ INC.'S MOTION TO DISMISS

Pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), Defendant Mobiz Inc. hereby moves to dismiss all claims against it in Plaintiff's Complaint, Doc. No. 1. The grounds for this motion are set forth in the accompanying Memorandum of Law, but include the following:

1. Plaintiff fails to plead a violation of the Telephone Consumer Protection Act ("TCPA") against Mobiz, which warrants dismissal under Rule 12(b)(6). Count I fails because the Complaint lacks factual allegations plausibly supporting Plaintiff's assertion that Mobiz "initiated" text messages. Count II fails because it seeks to enforce a regulation for which there is no private right of action.

2. Even if there was a private right of action for Count II, Plaintiff lacks standing to pursue such a claim because he has not incurred injury. Accordingly, this claim should be dismissed pursuant to Rule 12(b)(1).

WHEREFORE, for these reasons and those set forth in the accompanying Memorandum of Law and the contemporaneously filed Declaration of John J. Butts, Mobiz respectfully requests that the Court dismiss the Complaint with prejudice, award Defendants reasonable attorneys' fees and expenses, and award any other relief that the Court deems fair and just.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d) and this Court's standing order, Mobiz respectfully requests oral argument. The case involves complex legal questions. Mobiz believes that oral argument will help sharpen the issues before the Court and assist the Court in ruling on this motion.

Dated: July 3, 2025

Respectfully submitted,

/s/ John J. Butts
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Counsel for Mobiz Inc.

RULE 7.1(A)(2) CERTIFICATE

I certify that, on June 30, 2025, I conferred with counsel for Plaintiff, Anthony Paronich, who did not assent to the relief sought in this motion.

Dated: July 3, 2025

/s/ John J. Butts
John J. Butts